

EX PARTE OR LATE FILED

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August 12, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, D.C. 20554

RECEIVED

AUG 12 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**Re: Ex Parte Presentation - ET Docket 95-183 and PP Docket No. 95-183**

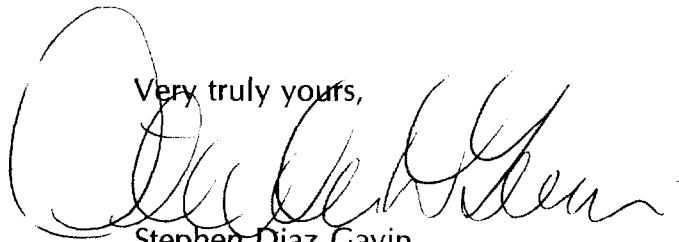
Dear Mr. Caton:

Pursuant to Section 1.206(2) of the Commission's Rules, I hereby provide notice that on August 7, 1996, the law firm of Patton Boggs, L.L.P. hand served a letter relating to ET Docket No. 95-183 and PP Docket No. 95-183. Patton Boggs represents Commco, L.L.C., in connection with certain matters related to the above-referenced dockets. The letter was served on each Commissioner, their respective staff members and certain other agency personnel handling the 39 GHz application freeze matter.

For the information of any reader of this notice, I have attached copy of the referenced letter and attachment.

If you have any questions about this matter, please call me at (202) 457-6340 or Paul C. Besozzi at (202) 457-5292.

Very truly yours,



Stephen Diaz Gavin

Attachments

cc: John Fithian, Esquire  
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August 7, 1996

**HAND DELIVERED**

The Honorable Reed E. Hundt, Chairman  
Federal Communications Commission  
1919 M Street N.W. Rm 814 Stop Code 0101  
Washington DC 20554

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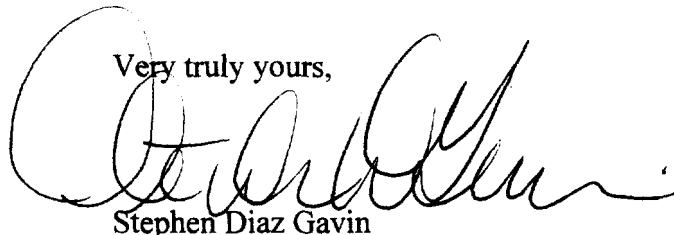
Re: **ET Docket No. 95-183**  
**PP Docket No. 93-253**

Dear Chairman Hundt:

On December 15, 1995, the Commission adopted a *Notice of Proposed Rulemaking and Order*, FCC 95-500, regarding the filing, processing and proposal to grant by competitive bidding applications for 39 GHz band of frequencies. In doing so, the Commission also determined to freeze, pending the adoption of competitive bidding selection rules, the processing of certain 39 GHz applications that are not mutually exclusive.

We wish to bring to your attention and that of the other Commissioners and their staffs the attached copy of a letter from Senators John Breaux and Wendell Ford regarding this matter. The original is awaiting additional signatures and will be forwarded to the Commission by Senator Breaux's office later this week

Very truly yours,



Stephen Diaz Gavin

Attachment

cc: The Honorable James H. Quello  
The Honorable Rachelle B. Chong  
The Honorable Susan Ness

**PATTON BOGGS, L.L.P.**

The Honorable Reed E. Hundt

August 7, 1996

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**Congress of the United States**  
**Washington, DC 20515**

August 2, 1996

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Dear Chairman Hundt:

We write to urge the FCC to resume the processing and granting of non-competitive applications in the 39 GHz band of frequencies that were amended on or before December 15, 1995. The retroactive nature of the current freeze is inequitable.

The FCC's December 15, 1995 notice of proposed rulemaking appeared to apply competitive bidding procedures to the 39 GHz band of frequencies, including already pending non-competitive applications which had been amended at the FCC's request to remove frequency conflicts. We have concerns that such a rule change may violate both the intent of Congress to limit the FCC's authority to submit pending applications to auction under the OBRA 93 and a congressional directive to the FCC to avoid mutually exclusive situations by utilizing frequency coordination and application amendments. The processing freeze seems to ignore this directive by preventing the processing of amendments that would eliminate the mutually exclusive status of many applications.

This delay is preventing the implementation of new wireless "last mile" technology for the local loop that will bring competition to local markets now dominated by one service provider. In addition, the practical effect of the freeze is the blocking of deployment of promising technology that could benefit underserved populations. Several of the 39 GHz companies have specifically targeted for service smaller cities and rural areas, which have even fewer competitive alternatives.

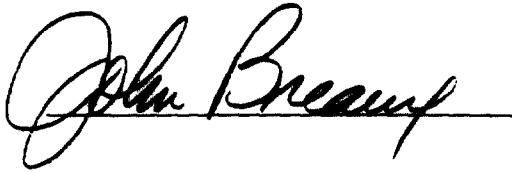

The principal policy of the Telecommunications Act of 1996 was "to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." We urge you to resume the processing and granting of 39 GHz applications that were amended to remove conflicts with other applications on or before December 15, 1995. Finally, we urge the FCC to

Chairman Hundt  
August 2, 1996  
page 2

make sure that any build-out requirements in its eventual rulemaking on the subject are reasonable.

Thank you for your consideration of this matter.

Sincerely,

Handwritten signature of John Breary in cursive script, written over a horizontal line.Handwritten signature of Wendell Ford in cursive script, written over a horizontal line.